

AMENDED IN SENATE MARCH 26, 2014

SENATE BILL

No. 1348

Introduced by Senator DeSaulnier

February 21, 2014

An act to add Chapter 22.3 (commencing with Section 22590) of Division 8 of the Business and Professions Code, relating to personal information.

LEGISLATIVE COUNSEL'S DIGEST

SB 1348, as amended, DeSaulnier. Online-Data *data* brokers: sale of personal information: notice.

Existing law protects the privacy of personal information, including customer records, and requires a business that owns or licenses personal information about a California resident to implement and maintain reasonable security procedures and practices appropriate to the nature of the information, in order to protect the personal information from unauthorized access, destruction, use, modification, or disclosure.

Existing law requires an operator of a commercial Internet Web site or online service that collects personally identifiable information through the Internet about consumers residing in California who use or visit its commercial *Internet* Web site or online service to conspicuously post its privacy policy on its *Internet* Web site or online service and to comply with that policy.

This bill would require an online data broker, as defined, ~~that conducts business in California, and that sells to a 3rd party the personal information of any resident of California, to notify the individual to whom personal information pertains when the online data broker sells that information to a 3rd party, and to inform the individual of the content of the information sold and the identity of the purchaser.~~ *allow*

an individual to review his or her personal information, either pursuant to a written request or by means of an electronic search through a secure online system. The bill would require an online data broker to conspicuously post an opt-out notice on its Internet Web site, as specified, that would provide specific instructions for permanently removing personal information from the online data broker's database by making a written demand requesting to have the information permanently removed. The bill would require an online data broker that receives a written demand from an individual pursuant to these provisions to remove the individual's personal information from public display on the Internet within 10 days of delivery of the written demand, and to take specified additional steps to ensure that the information is not reposted.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 22.3 (commencing with Section 22590)
2 is added to Division 8 of the Business and Professions Code, to
3 read:

4
5 CHAPTER 22.3. ~~ONLINE DATA BROKERS~~ ONLINE DATA
6 BROKERS
7

8 22590. The following definitions apply to this chapter:

9 (a) "Conspicuously post," with respect to an opt-out notice,
10 means to post through any of the following:

11 (1) An Internet Web page on which the actual opt-out notice is
12 posted if the Internet Web page is the homepage or first significant
13 page after entering the Internet Web site.

14 (2) An icon that hyperlinks to an Internet Web page on which
15 the actual opt-out notice is posted, if the icon is located on the
16 homepage or the first significant page after entering the Internet
17 Web site, and if the icon contains the term "opt out" or "opt-out."
18 The icon shall also use a color that contrasts with the background
19 color of the Internet Web page or is otherwise distinguishable.

20 (3) A text link that hyperlinks to an Internet Web page on which
21 the actual opt-out notice is posted, if the text link is located on the

1 homepage or first significant page after entering the Internet Web
2 site, and if the text link does one of the following:

3 (A) Includes the term “opt out” or “opt-out.”

4 (B) Is written in capital letters equal to or greater in size than
5 the surrounding text.

6 (C) Is written in larger type than the surrounding text, or in
7 contrasting type, font, or color to the surrounding text of the same
8 size, or set off from the surrounding text of the same size by symbols
9 or other marks that call attention to the language.

10 (4) Any other functional hyperlink that is so displayed that a
11 reasonable person would notice it.

12 (a)

13 (b) “Online data broker” means ~~a person or business that~~
14 ~~conducts business in California, and that owns, licenses, compiles,~~
15 ~~or accesses computerized data that includes individuals’ personal~~
16 ~~information, for the purpose of selling the personal information~~
17 ~~upon the request of a third party commercial entity that collects,~~
18 ~~assembles, or maintains personal information concerning~~
19 ~~individuals residing in California who are not customers or~~
20 ~~employees of that entity, for the purposes of selling the personal~~
21 ~~information or providing a third party with access to the~~
22 ~~information.~~

23 (b)

24 (c) “Personal information” means any information that identifies,
25 relates to, describes, or is capable of being associated with, a
26 particular individual, including, but not limited to, his or her name,
27 signature, social security number, physical characteristics or
28 description, address, telephone number, passport number, driver’s
29 license or state identification card number, insurance policy
30 number, education, employment, employment history, bank account
31 number, credit card number, debit card number, or any other
32 financial information, medical information, or health insurance
33 information. “Personal information” does not include publicly
34 available information that is lawfully made available to the general
35 public from federal, state, or local government records.

36 (d) “Publicly post” or “publicly display” means to intentionally
37 communicate or otherwise make available to the general public.

38 (e)

39 (e) “Subject individual” means the person to whom personal
40 information pertains.

~~22592. (a) An online data broker that conducts business in California, and that sells to a third party the personal information of any resident of California, shall inform the subject individual of all of the following:~~

~~(1) That the online data broker has sold the subject individual's personal information to a third party.~~

~~(2) The content of the personal information sold.~~

~~(3) The identity of the third party to whom the online data broker sold the subject individual's personal information.~~

~~(b) The online data broker shall provide the information described in paragraphs (1) to (3), inclusive, of subdivision (a) by forwarding the information to each e-mail address for the subject individual to which the online data broker has access, at the same time that the online data broker provides the personal information to the third party. If the online data broker does not have access to any e-mail address for the subject individual, the online data broker shall mail a copy of the information to the most recent physical address for the subject individual to which the online data broker has access, within ____ working days after the online data broker provides the personal information to the third party.~~

22592. An online data broker that sells or provides to a third party the personal information of any resident of California, shall permit an individual to review his or her personal information that has been collected, assembled, or maintained by the online data broker, either by submitting a written request or by means of an electronic search through a secure online system.

22594. (a) (1) An online data broker shall conspicuously post an opt-out notice on its Internet Web site, which shall include specific instructions for permanently removing personal information from the online data broker's database, by making a written demand requesting to have the information removed.

(2) If an individual makes a written demand to remove his or her personal information from an online data broker's database pursuant to this subdivision, the online data broker shall permanently remove an individual's personal information from its database, in accordance with subdivision (b).

(b) (1) An online data broker that receives a written demand from an individual pursuant to this section shall remove the individual's personal information from public display on the Internet within 10 days of delivery of the written demand, and shall

1 *continue to ensure that this information is not reposted on the*
2 *same Internet Web site, a subsidiary site, or any other Internet*
3 *Web site maintained by the online data broker receiving the written*
4 *demand.*

5 (2) *After receiving the individual's written demand, the online*
6 *data broker shall not transfer an individual's personal information*
7 *to any other person, business, or association through any other*
8 *medium.*

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